

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

NO. 5:11-CV-429-WW

SIU SHING TONG,

Plaintiff,

v.

DASSAULT SYSTEMES SIMULIA  
CORP., *et al.*,

Defendants,

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**ORDER**

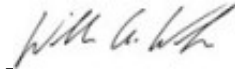
This cause comes before the Court upon Plaintiff's motion to amend his complaint (DE-71). Defendant Dassault Systemes Simulia K.K. ("DSSKK") has responded to this motion (DE-78), and the matter is now ripe for adjudication.

Rule 15(a) of the Federal Rules of Civil Procedure states that a party's pleadings may be amended upon written consent of the adverse party or by leave of court. Leave to amend the pleadings "shall be freely granted when justice so requires." The liberal policy for allowing amendments to pleadings should be followed unless the Court finds a justifying reason for disallowing the amendment. Foman v. Davis, 371 U.S. 178, 182 (1962). It is an abuse of discretion to deny a motion for leave to amend without finding a justifying reason. *Id.* In all instances, leave to amend should be given freely in the absence of undue delay, bad faith, improper motive, futility, undue prejudice to the opposing party, or some other justifying reason. Bireline v. Seagondollar, 567 F.2d 260 (4<sup>th</sup> Cir. 1977). The undersigned has reviewed the proposed amendments and does not find them to be futile on their face. Similarly, in the current procedural

posture of this case, a final amendment will not lead to undue delay, nor will it unduly prejudice DSSKK. Given the liberal standard for permitting amendment, Plaintiff's motion to amend (DE-71) is GRANTED. However, any further amendments will be strongly disfavored.

Based on this ruling, DSSKK's pending motion to dismiss (DE-66) is DENIED WITHOUT PREJUDICE. Likewise, DSSKK's motion for an extension of time to file a reply regarding its motion to dismiss (DE-74) is DENIED AS MOOT. Finally, DSSKK's request for an extension of time to respond to Plaintiff's Second Amended Complaint (DE-76) is GRANTED. DSSKK shall file its response to Plaintiff's Second Amended Complaint no later than December 26, 2012.

DONE AND ORDERED in Chambers at Raleigh, North Carolina on Friday, November 30, 2012.



---

WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE